

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GILBERTO DIAZ,

Petitioner,

-against-

SUPERINTENDENT OF GREEN HAVEN
FACILITY,

Respondent.

20-CV-9174 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

By order dated December 7, 2020, the Court directed Petitioner, within thirty days, to submit a completed request to proceed *in forma pauperis* (“IFP application”) or pay the \$5.00 fee required to file a petition for a writ of *habeas corpus* in this Court. That order specified that failure to comply would result in dismissal of the petition. Petitioner has not filed an IFP application or paid the fee. Accordingly, the petition is dismissed without prejudice. *See* 28 U.S.C. §§ 1914, 1915.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket. The petition is dismissed without prejudice

Because the petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue under 28 U.S.C. § 2253.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: February 4, 2021
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge